



Approved 3-25-08

**Zoning Board of Appeals
Meeting Minutes
January 22, 2007**

Members present: Richard Rand, Chairman; Mark Rutan, Clerk; Richard Kane; Sandra Landau, Alternate; Gerry Benson, Alternate

Members excused: Dan Ginsberg

Others present: Kathy Joubert, Town Planner; Bill Farnsworth, Building Inspector; Elaine Rowe, Board Secretary; Attorney George Pember,

Chairman Rand called the meeting to order at 7:03pm.

Continued Public Hearing to consider the petition of Vanderlando Pitol for a Variance/Special Permit to allow expansion of a non-conforming structure/use on the property located at 394 West Main Street

Chairman Rand noted that the applicant has failed to respond to recent communication. Ms. Joubert explained that she had left several messages and none of her phone calls have been returned. Mr. Farnsworth stated that he been told by the realtor that the purchase of the property is off and this application is no longer being pursued, but the board has not received confirmation of this. Ms. Joubert noted that she had left a message asking the applicant to submit a letter of withdrawal. Given that a letter has not been received, by law the board must proceed with the hearing. Mr. Rutan noted that the issue here is the applicant's failure to appear to make a presentation, and the status of the deal has no bearing.

Richard Kane made a motion to close the hearing. Mark Rutan seconded, vote unanimous.

Richard Kane made a motion to deny the petition due to a lack of information. Mark Rutan seconded, vote unanimous.

Extension for 11 Monroe Street, Case No. 05-20 – Attorney George Pember appeared on behalf of the applicant to request a six month extension. He noted that his client has indicated that he will be scheduling site work to commence in the spring but needs a six month extension because the plans for the project are not yet finalized.

Richard Kane noted that this project goes back to 2005, and questioned whether the two year validity of the decision has already expired. Ms. Joubert commented that the

demolition work had begun within the two-year term of the special permit, which should be sufficient to activate the permit. Attorney Pember commented that the applicant had also brought sewer up the street. Mr. Farnsworth voiced his understanding that the special permit is activated when the building permit is pulled, and noted that a permit was pulled for the demolition work. He believes that the applicant is acting within his rights by seeking an extension, given the fact that the project has been delayed.

Mr. Kane commented that the applicant can only proceed with the project as originally presented. Ms. Joubert confirmed that the applicant would be required to come back to the board if he intends to substantially change the project. After discussing the options and timelines, Attorney Pember amended his request to seek a one-year extension.

Mark Rutan made a motion to grant a one year extension on the decision for 11 Monroe Street (Case No. 05-20) to August 17, 2009. Richard Kane seconded, vote unanimous.

Review of Minutes of the following meetings:

August 28, 2007
September 25, 2007
October 29, 2007
November 27, 2007
December 11, 2007

Richard Kane made a motion to accept the Minutes of the Meeting of October 29, 2007. Mark Rutan seconded, vote unanimous.

Richard Kane made a motion to accept the Minutes of the Meeting of November 27, 2007. Mark Rutan seconded, vote unanimous.

Mark Rutan made a motion to accept the Minutes of the Meeting of August 28, 2007. Richard Kane seconded, vote unanimous.

Mark Rutan made a motion to accept the Minutes of the Meeting of September 25, 2007. Richard Kane seconded, vote unanimous.

Richard Kane made motion to accept the Minutes of the Meeting of December 11, 2007 as amended. Mark Rutan seconded, vote unanimous.

Letter to Bill Farnsworth from Brian Smith regarding the proposed Stop & Shop Project – Mr. Farnsworth explained that he had written a response letter in which he indicated that he stands by his original determination. Ms. Joubert noted that the Planning Board should be wrapping up their hearing on this matter at their next meeting.

Regulatory agreements for Dunia Gardens – Ms. Joubert explained that she has sent members of the board a copy of an opinion letter from Town Counsel. She noted that, last August Town Counsel had reviewed the regulatory agreements and found several items that needed to be corrected. She explained that the main issue was that reference was made to CHAPA as the monitoring agency when, in fact, the state has

changed the monitoring agency to Mass Housing. Town Counsel is referring back to the fact that the regulatory agreement refers to Mass Housing but the decision still references CHAPA. Ms. Joubert noted that Town Counsel is not comfortable with these things still being in conflict and believes that the applicant should come back to the board to request that the condition in the decision be amended to read Mass Housing. She also voiced her opinion that this is not a substantial enough change to require a public hearing.

Ms. Joubert stated that she is complying with Town Counsel's advice and recommending that the board not sign the regulatory agreement until the applicant has made the necessary changes. Mr. Kane agreed. Ms. Joubert also noted that it is up to the board to decide whether this is a substantial change or not, and reiterated that a substantial change will require a public hearing.

Ms. Joubert informed the board that they may need to meet prior to their next regular meeting on February 26th to hold an executive session to discuss the project on South Street. Members of the board agreed to meet on February 7th.

Richard Kane made a motion to adjourn. Mark Rutan seconded, vote unanimous.

Adjourned at 7:30PM.

Respectfully submitted,

Elaine Rowe
Board Secretary